

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

IN RE: PROPULSID PRODUCTS LIABILITY LITIGATION	:	MDL NO. 1355
	:	
	:	SECTION: L
	:	
	:	JUDGE FALLON
	:	
	:	MAG. JUDGE
THIS DOCUMENT RELATES TO ALL CASES	:	WELLS-ROBY

.....

**PRE-TRIAL ORDER NO. 18
(APPOINTMENT OF MEDIATOR)**

CONSIDERING THE JOINT MOTION FOR APPOINTMENT OF MEDIATOR,

IT IS HEREBY ORDERED:

1. The Parties shall participate in a mediation, whereby a neutral and impartial person will assist them in attempting to reach a mutually acceptable negotiated resolution of the dispute between them (the "Mediation").
2. The Parties jointly retain and the Court does hereby appoint Patrick A. Juneau as Mediator in this litigation (the "Mediator").
3. The Mediator is authorized to schedule and conduct the mediation process as he deems appropriate, subject to the provisions of this Order.
4. The first mediation session shall begin no later than September 30, 2002.
5. Except as provided for herein, the Mediation shall be non-binding, and the Mediator shall not have the authority to render a decision that shall bind the Parties.
6. The Parties are not obligated to agree to any proposals which are made during the Mediation.
7. No party shall be bound by anything said or done during the Mediation, unless a written and signed stipulation or agreement is entered into by the Parties.

8. The Mediation shall be considered a settlement negotiation for the purpose of all federal and state rules (including but not limited to Fed. R. Evid. 408) protecting disclosures made during such conferences from later discovery or use in evidence. The entire procedure shall be confidential, and no stenographic or other record shall be made except to memorialize a settlement record. All conduct, oral or written, made during the Mediation by any party or a party's agent, employee, or attorney is confidential. Such conduct, statements, promises, offers, views and opinions shall not be subject to discovery or admissibility for any purpose, including impeachment in any litigation or other proceeding involving the Parties. Provided, however, that evidence otherwise subject to discovery or admissible is not excluded from discovery or admission in evidence simply as a result of it having been used in connection with this Mediation.

9. All written materials submitted in the course of the Mediation shall be Bates numbered with a specific number exclusive to the Mediation, and where appropriate cross-referenced to document production bates numbers, and all such written materials and copies thereof shall be returned to the submitting party at the conclusion or termination of the Mediation.

10. Information obtained by the Mediator, either in written or oral form, shall be confidential and shall not be revealed by the Mediator unless and until the party who provided that information agrees to its disclosure.

11. The Mediator shall periodically report to the Court the status of the Mediation process, but those reports should be limited to matters general to the Mediation and its progress and not to specifics or to the merits of the Mediation or to the respective Parties' positions or statements made during the course of the proceedings. The Mediator shall not, without the prior written consent of both parties, disclose to the Court any matters which are disclosed to him by either of the parties or any matters which otherwise relate to the Mediation. No party shall have any ex parte substantive discussions or contacts with the mediator unless the communication is instituted by the mediator. The parties are free to initiate non-substantive discussions or contacts with the mediator, such as for scheduling or logistical purposes.

12. The Mediator and his agents, shall have the same immunity as judges and court employees have under federal and state law from liability for any act or omission in connection with the Mediation, and from compulsory process to testify or produce documents in connection with the Mediation.

13. The Parties (i) shall not call or subpoena the Mediator, his employees or his associates as a witness

or expert in any proceeding relating to: (i) the Mediation, the subject matter of the Mediation, or any thoughts or impressions which the Mediator may have about the parties in the Mediation, and (ii) shall not subpoena any notes, documents or other materials prepared by the Mediator in the course of or connection with the Mediation, and (iii) shall not offer in evidence any statements, views or opinions of the Mediator.

14. Any party has a right to withdraw from the Mediation at any time for any reason.

15. The Mediator's costs and fees shall be paid equally by the Parties.

New Orleans, Louisiana, this 4th day of September, 2002.

/s/ Eldon E. Fallon
JUDGE ELDON E. FALLON
UNITES STATES DISTRICT JUDGE